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Plaintiff moves for an order compelling responses to its document requests. The Court has set a firm deadline of December 18, 2020 for the completion of fact discovery. Dkt. No. 76. The Court will hold a conference on the motion on Friday, November 6, 2020 at 1:00 p.m. By 5:00 p.m. on November 5, 2020, Defendant shall submit a letter setting forth when it will complete the production of documents responsive to Plaintiff's document requests. In the absence of such a request, the Court will set its own deadline. The Clerk of Court is respectfully directed to close the motions at Dkt. Nos. 79 & 80.

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OF COUNSEL
MILTON WOLSON

BY ECF

Hon. Lewis J. Liman, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street, Room 701
New York, NY 10007

November 4, 2020

SO ORDERED.



LEWIS J. LIMAN
United States District Judge

Re: *E. Mishan & Sons, Inc. v. Tekno Products Inc. et al.*
Civ. Action No. 1:19-cv-1910 (LJL)
Our Ref. J137-3866

Dear Judge Liman:

We represent plaintiff E. Mishan & Sons, Inc. ("Emson") in the above-referenced lawsuit. This is an action against Defendants for false advertising, and trade dress and copyright infringement. We respectfully submit this letter requesting that, pursuant to Fed. R. Civ. P. 37(a)(3)(B)(iv), the Court compel defendants to provide documents responsive to:

- 1) Plaintiff's First Set of Document Requests To Defendant Tekno Products Inc.;
- 2) Plaintiff's First Set of Document Requests to Defendant Ollie's Bargain Outlet Inc.;
- and
- 3) Plaintiff's Second Set of Document Requests To All Defendants.

We have attempted unsuccessfully to meet and confer with defendants' counsel regarding this motion. Although the parties have discussed defendants' document production numerous times, Plaintiff most recently inquired, by email of October 22, 2020 when defendants planned to produce documents and if they could not respond, to conduct the required meet and confer. By email of October 28, 2020, Plaintiff's counsel again requested to conduct a meet and confer on this issue. To date, defendants' counsel has not responded. Pursuant to the Court's Rule 4.B, Plaintiff has thus met the requirement to attempt to meet and confer.

Plaintiff's first sets of document requests were served on July 5, 2019. Defendants Tekno and Ollie's provided objections on September 16, 2019 and amended objections on October 11, 2019. No documents at all have been produced by these two defendants. (Note: Defendant Ocean State produced documents on October 31, 2019.) Plaintiff's second set of document requests were served on August 2, 2020. All defendants served objections on September 17, 2020; none have yet produced any documents in response.

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October 30, 2020
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Plaintiff has attempted to work cooperatively with defendants in light of the COVID pandemic and hardships endured by all parties in conducting their businesses, much less this litigation. Indeed, the parties have mutually agreed to two previous COVID-related discovery extensions, which the Court graciously granted. However, in its last order (Dkt. 76), extending fact discovery to December 18, 2020, the Court stated that “no further extensions” would be granted.

In view of the current schedule, Plaintiff has labored to produce its documents responsive to defendants’ discovery requests. Plaintiff’s first production occurred back on October 16, 2019. This was supplemented on October 22, 2020, completing the majority of Plaintiff’s production. However, defendants Tekno and Ollie’s have yet to produce a single document, much less even commit to a date by which they would begin or complete such production. Indeed, defendants’ counsel even skirts its obligation to discuss the issue by ignoring Plaintiff’s inquiries.

In view of the above, Plaintiff respectfully requests the Court order defendants Tekno and Ollie’s (and to the extent Ocean State’s production was not complete, Ocean State) to produce all documents responsive to the above requests by November 6, 2020. Anything later will not leave sufficient time to review any documents produced and conduct the necessary depositions of defendants’ witnesses by the December 18, 2020 discovery cutoff.

Respectfully submitted,

s/ Alan Federbush

Alan Federbush

cc:
All counsel of record by ECF